■ TOLER
▦ LARSON
⠿ & ABEL ᴸᴸᴾ

FACSIMILE COVER SHEET

DATE: December 19, 2005

TO: Examiner Longbit CHAI   **FAX NO.:**   571-273-8300
USPTO GPAU 2131

FROM: Adam D. Sheehan
Reg. No.: 42,146

RE U.S. App. No.: 10/623,274, filed July 18, 2003

Applicant(s): Brian GONSALVES, et al.

Atty Dkt No.: 1033-SS00378

Title: SYSTEM AND METHOD FOR DETECTING COMPUTER PORT INACTIVITY

NO. OF PAGES (including Cover Sheet): 8

MESSAGE:

Attached please find:

☒ Pre-Appeal Brief Request for Review (1 pg)
☒ Notice of Appeal (1 pg)
☒ Remarks in Support of the Pre-Appeal Brief Request for Review (5 pgs)

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Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 1033-SS00378	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _December 19, 2005_ Signature _Molly K. Harrison_	Application Number 10/623,274	Filed July 18, 2003
	First Named Inventor Brian GONSALVES, et al.	
Typed or printed name __Molly K. Harrison__	Art Unit 2131	Examiner Longbit CHAI

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____

☒ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 __42,146__

Signature

Adam D. Sheehan
Typed or printed name

(512) 327-5515
Telephone number

11/19/05
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Brian GONSALVES, et al.

Title: SYSTEM AND METHOD FOR DETECTING COMPUTER PORT INACTIVITY

App. No.: 10/623,274   Filed: July 18, 2003

Examiner: Longbit CHAI   Group Art Unit: 2131

Customer No.: 34456   Confirmation No.:   2414

Atty. Dkt. No.: 1033-SS00378

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

REMARKS IN SUPPORT OF
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Office Action mailed September 22, 2005 (hereinafter, "the Office Action") and further pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, the Applicants respectfully request review and reconsideration of the Office Action in view of the following issues.

The Office Action Bases Rejection of the Independent Claims On The Previously Cited Art

The Applicants previously submitted a Pre-Appeal Request For Review on August 9, 2005 (hereinafter, "the First Request") in response to a Final Office Action (hereinafter, "the Final Action") dated May 10, 2005. In the Final Action, the Examiner rejected the independent claims 1, 10, 19, 23 and 26 under 35 U.S.C. § 103(a) over Cohen (US 6,477,595 B1). In the First Request, the Applicants showed that Cohen does not disclose each and every element of these independent claims, and in a Panel Decision dated September 22, 2005 prosecution of the Application was reopened. However, in the Office Action (sent with the Panel Decision) the independent claims were again rejected based on Cohen, although this time the rejection was premised under 35 U.S.C. § 102. Given that the Examiner has simply restated the same

arguments from the Final Action, Applicants do not believe it would be fruitful to submit a response to the Office Action, and instead have elected to proceed with this Request for Pre-Appeal Brief Request for review.

Claims 1-6, 8-14, and 16-29 are allowable

Claims 1-4, 6, 8-14, 16, 17, 19-26 and 29 were rejected under 35 U.S.C. § 102 over Cohen. Claim 1, from which claims 2-6 and 8-9 depend, recites the following element: "blocking logic responsive to detection logic, the blocking logic to selectively initiate a blocking signal to disable communications from the second interface from being sent over the first interface to the end-user computer." Although the Final Action on page 2 admits that Cohen does not expressly disclose this element, the Office Action states that this element is disclosed at column 10, line 65 through column 11, line 3 of Cohen. Applicants submit that the Office Action is incorrect. Cohen discloses a central office modem in a standby mode. Cohen fails to teach or suggest that the central office modem in standby mode blocks any communication to the end station through the customer premise DSL modem. If, for example, a communication is sent from a wide area network to an end user computer through the central office while the central office modem is in standby mode, there is no teaching or suggestion in Cohen that the central office modem will selectively initiate a blocking signal to block the communication from the wide area network to the end station. Accordingly, Cohen fails to disclose or suggest each and every element of claim 1.

Claim 10, from which claims 11-14 and 16-18 depend, recites a method including "blocking data originating from the second wide area data network connection from being communicated to the first local data connection to establish a blocking condition." As set forth above, Cohen does not teach or disclose blocking data communications from a wide area data network to an end-user computer. Accordingly, Cohen fails to disclose or suggest each and every element of claim 10.

Claim 19, from which claims 20-22 depend, recites a method including "during a first period of time, blocking data received from the second port of the digital subscriber line routing equipment from being communicated by the first port of the digital subscriber line routing equipment." As set forth above, Cohen does not teach or disclose blocking data communications

at routing equipment. Accordingly, Cohen fails to disclose or suggest each and every element of claim 19.

Claim 23, from which claims 24 and 25 depend, recites the following element "blocking logic responsive to the detection logic, the blocking logic to selectively initiate a blocking signal to selectively disable communications from being sent over the first interface to at least one of the plurality of end-user computers in the local area network while allowing communications to be sent over the first interface to at least one other of the plurality of end-user computers in the local area network." As set forth above, Cohen discloses a standby mode and does not suggest or disclose <u>selectively initiating a blocking signal</u> to selectively disable communications from being sent over the first interface to at least one of the plurality of end-user computers in the local area network <u>while allowing communications to be sent</u> over the first interface to at least one other of the plurality of end-user computers in the local area network. In contrast to claim 23, Cohen teaches a modem in standby mode that does not selectively initiate blocking signals to allow communications to be sent over a first interface to an end user computer. Accordingly, Cohen fails to disclose or suggest each and every element of claim 23.

Claim 26, from which claims 27-29 depend, recites a method that includes the following element "selectively blocking data originating from the wide area network data connection from being communicated to the one or more of the plurality of inactive end-user computers while allowing data originating from the wide area network data connection to be communicated to at least one of the plurality of the end-user computers that remains in an active state." As set forth above, Cohen does not disclose or suggest selectively blocking data originating from the wide area network data connection from being communicated to one or more of a plurality of inactive end-user computers while allowing data originating from the wide area network data connection to be communicated to at least one of the plurality of the end-user computers that remains in an active state. Accordingly, Cohen fails to disclose or suggest each and every element of claim 26.

With respect to claims 2-4, 6, 8, 9 11-14, 16, 17, 19-22, 24, 25 and 29, Cohen fails to teach each and every limitation of these claims, at least by virtue of their dependency from one of the independent claims 1, 10, 19, 23, and 26.

Claims 5, 18, and 27-28 are allowable

Claims 5, 18, and 27-28 were rejected under 35 U.S.C. § 103(a) over Cohen in view of Evans (US 6,477,595 B1). As set forth above, Cohen fails to teach or suggest the specific combination of these claims, at least because of their dependency on claims 1, 10, and 26, respectively. Further, Evans does not remedy the deficiency of Cohen. Accordingly, Cohen and Evans, individually and in combination, fail to disclose or suggest each and every element of claims 5, 18, and 27-28, at least by virtue of their dependency on the independent claims 1, 10, and 26 respectively.

Claims 7, 15 and 30 are allowable

Claims 7, 15 and 30 were rejected under 35 U.S.C. § 103(a) over Cohen in view of Gerszberg (US 6,510,152 B1). As set forth above, Cohen fails to teach or suggest the specific combination of these claims, at least because of their dependency on claims 1, 10, and 26, respectively. Further, the specific combination of these claims are not shown by the combination of Cohen and Gerszberg.

Furthermore, there is no suggestion in either Cohen or Gerszberg that the references be combined. In particular, Gerszberg discloses a "set-top box" to allow an interexchange carrier to access telephone lines or cable lines before those lines enter the switching technology of local telephone carriers. Gerszberg, col. 2 lines 27-43. Gerszberg does not address the blocking of data to an end user computer from a wide area network. Furthermore, Gerszberg does not address and is not related to the area of multiplexing multiple DSL modems, as described by the Cohen patent. Accordingly, there is no motivation, teaching or suggestion for one of skill in the art to combine the Cohen and Gerszberg references.
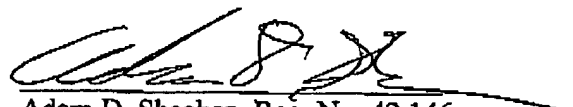
Conclusion

As discussed above, the Office Action fails to establish that the cited references and the proposed combinations thereof disclose or suggest the specific combinations of elements recited by independent claims 1, 10, 19, 23, and 26. The Office Action therefore fails to establish that the cited references disclose or suggest each and every element of claims 2-9, 11-18, 20-21, 24-25, and 27-30 at least by virtue of their dependency from one of claims 1, 10, 19, 23, or 26.

Accordingly, the pending claims are allowable over the cited references and the Applicants therefore request withdrawal of all pending rejections.

Respectfully submitted,

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Date

12/19/05

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